

COURTHOUSE NEWS

A Summary of Topical Highlights from decisions of the
U.S. District Court for the District of Oregon
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Fourth Amendment

Portland police officers responded to a 911 call from a woman reporting she was the victim of an assault in progress by a "drunk" man who was "pushing and hitting" the caller and who had access to guns. The caller reported they were inside the man's house. When officers arrived on the scene, the caller was in a car, the alleged assailant was outside of the car, and the two were talking but not shouting. Seeing the officers, the man walked away from the car, across the public street and sidewalk and to the front porch of his residence where officers restrained him and applied handcuffs. The officers placed the man in the back of a police car while they attempted to investigate the

assault call. The woman, however, had left the scene and a 911 operator was unable to reach anyone at the phone number from which the woman had called for help. The officers concluded they no longer had any basis to detain the man for purposes of investigating the assault call. The officers, however, did not release the man believing he was intoxicated and a danger to himself or others. The officers transported the man to the Hooper Center for detoxification. The man was detained there for a few hours and released by staff. He brought an action against the officers alleging constitutional claims for false arrest and excessive force.

On cross-motions for summary judgment, Judge Brown granted in part defendants' motion on the basis

that the officers had reasonable suspicion to detain the man, therefore, the initial stop was not unreasonable under the Fourth Amendment. Judge Brown also concluded there were fact questions precluding summary judgment as to whether the investigatory stop was conducted in a reasonable manner and for a reasonable time, whether the officers used excessive force, and whether the man was intoxicated and a danger to himself or to others.

Judge Brown denied defendants' motion on the officers' qualified immunity defense.

Robert J. Larry v. Peter Helzer et al.
CV 05-229-BR

(Opinion, May 18, 2006)
Plaintiff's Counsel:
Mark Griffin
Defense Counsel: J.
Scott Moede

Wrongful Discharge

Plaintiff alleged a violation of her federal constitutional rights under 42 USC 1983 and various state claims including whistle blowing (retaliation), wrongful discharge, defamation, false light, IIED, and intentional interference with contract, against her former employer.

Pursuant to FRCP 12(b)(6), defendants moved to dismiss plaintiff's claims of wrongful discharge and interference with contract. After oral argument, Judge Aiken denied defendants' motion.

McLaughlin v. Douglas County et al.,
CV 05-6374-AA
(Opinion April 25, 2006)
Plaintiff's Counsel:
Martha Walters
Defense Counsel:
Nena Cook

Jury Verdict

In an employment discrimination case against the U.S. Postmaster General, after a five-day jury trial, the jury found for plaintiff awarding her \$250,000 in

damages.
Galdamez v. Potter,
CV 00-1768-PK
(Verdict, May 30, 2006)
Plaintiff's Counsel:
Craig Brockway Cordon
Defense Counsel: Ron Silver

Update to Jury Verdict

On April 28, 2006, a jury awarded plaintiff damages in the amount of \$2,220 for a Family Medical Leave Act claim.

On May 15, 2006, Judge Panter filed an Opinion denying defendant's motion for JMOL or a new trial.
Farrell v. Tri-Met,
CV 04-296-PA
(Opinion, May 15, 2006)

Employment

Plaintiff filed a complaint alleging defendants (1) discriminated against him in retaliation for filing a workers' compensation claim; (2) violated his rights under the ADA and Oregon's Disabilities Act; and (3) intentionally inflicted emotional distress. Defendants moved for summary judgment on all claims. The Court

denied defendants' motion as to the retaliation claim, and granted defendants' motions on the disabilities and IIED claims.
Kleist v. Pacchiosi
CV 05-564-BR
(Opinion, May 11, 2006)
Plaintiff's Counsel:
Thomas Doyle
Defense Counsel:
Allyson Krueger

Fair Credit Reporting Act

Plaintiff alleged claims against defendant AIG Domestic Claims pursuant to the FCRA. Defendant filed a motion to dismiss those claims. Judge Aiken granted defendant's motion to dismiss plaintiff's claim under the FCRA with prejudice and dismissed plaintiff's claims of intentional interference with economic relations and IIED without prejudice.
Dickison v. Wal-Mart,
CV 06-108-AA
(Opinion, May 17, 2006)
Plaintiff's Counsel:
Kerry Smith
Defense Counsel: Kari Furnanz